

**PUBLIC NOTICE  
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION  
CITY OF SAN JOSÉ, CALIFORNIA**

**File No. GP03-03-15 and PDC03-103**, General Plan amendment to change the San Jose 2020 General Plan Land Use/Transportation Diagram from Light Industrial to Medium Density Residential (8-16 DU/AC) and a Planned Development Rezoning from LI Light Industrial to A(PD) Planned Development Zoning District to allow 77 single-family detached residential units on a 7.7 gross acre site located on the west side of Highway 10, between Kelly Court and Sunny Court. (Sorrento Lactalis, Inc., Owner/Jeff McMullen- KB Home, Developer). Council District: 3

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

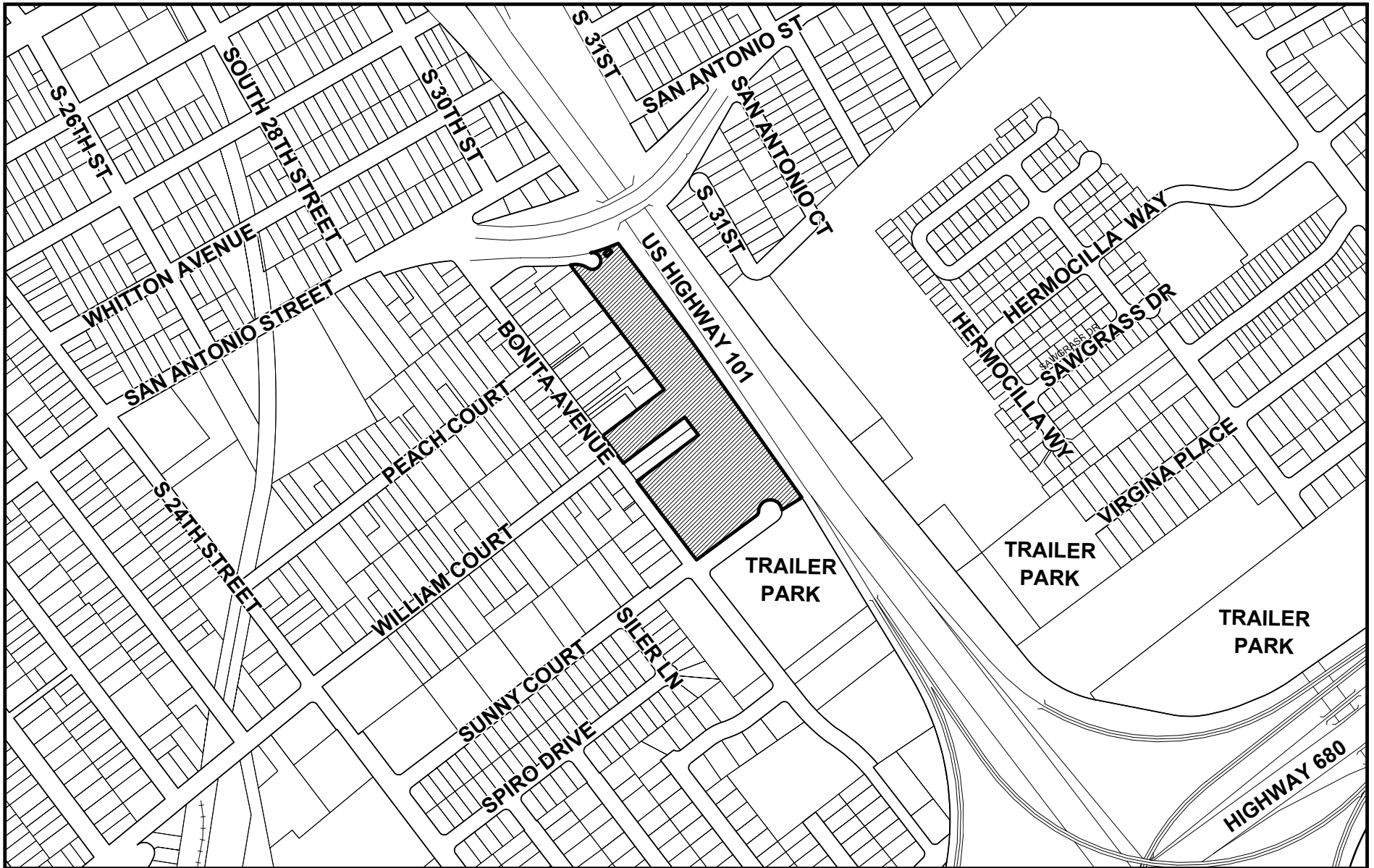
Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **October 26, 2004**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **October 7, 2004** and ends on **October 26, 2004**

A public hearing on the project described above is tentatively scheduled for **November 1, 2004 at 6:00 p.m.** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the East San Jose Carnegie Branch Library at 1102 East Santa Clara Street, San José, CA 95116 San Jose, and online at <http://www.sanjoseca.gov/planning/eir/MND2004.htm> Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Lesley Xavier** at (408) 277-4576.

Stephen M. Haase, AICP  
Director, Planning, Building and Code Enforcement

Circulated on: October 7, 2004

\_\_\_\_\_  
Deputy



Scale: 1"=500'

Created on 12/05/03

**File No: PDC03-103**

**District: 03**

**Quad No: 68**

**DRAFT  
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**NAME OF PROJECT:** A Residential Development on the Sorrento Cheese Company Site

**PROJECT FILE NUMBER:** GP03-03-15 and PDC03-103

**PROJECT DESCRIPTION:** General Plan amendment to change the San Jose 2020 General Plan Land Use/Transportation Diagram from Light Industrial to Medium Density Residential (8-16 DU/AC) and a Planned Development Rezoning from LI Light Industrial to A(PD) Planned Development Zoning District to allow 77 single-family detached residential units on a 7.7 gross acre site.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** West side of Highway 101 between Kelly Court and Sunny Court; 472-06-033; -034; -085; -087; -091; -092; -093

**COUNCIL DISTRICT:** 3

**NAME OF APPLICANT:** KB Home

**MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:**  
6700 Koll Center Parkway, Suite 200, Pleasanton, CA 94566; 925-750-1700

**FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

**MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

**AESTHETICS**

- Urban Conservation Policy #2: The City should encourage new development that enhances the desirable qualities of the community and existing neighborhoods.
- Community Identity Policy #1: The City should encourage the development of a compact, cohesive pattern of urbanization with definite, identifiable boundaries that readily create a sense of community identity.

- Urban Design Policy #1: The City should continue to apply strong architectural and site design controls on all types of development for the protection and development of neighborhood character and for the proper transition between areas with different types of land uses.
- Urban Design Policy #2: Private development should include adequate landscaped areas. Landscaped areas should utilize water efficient plant materials and irrigation systems. Energy conservation techniques such as vegetative cooling and wind shielding should also be utilized. All landscaped areas should include provision for ongoing landscape maintenance.
- Urban Design Policy #3: Residential subdivisions should be designed to provide for internal circulation within neighborhoods, prevent through vehicular traffic from traversing neighborhoods, and encourage pedestrian and bicycle connections between neighborhoods and to adjacent commercial uses and transit facilities.
- Urban Design Policy #16: When development is proposed adjacent to existing or planned parks or park chains, that development should include public park-frontage roads, wherever feasible, in order to maximize access to park lands, to provide a reasonable separation between urban land uses and park lands without the use of "back-up" design, and to maximize exposure of park lands for scenic and security purposes.
- Urban Design Policy #32: Amenities should be added to create a pleasant walking environment. These measures include ample sidewalk widths, crosswalks, street furniture, pedestrian-activated crossing lights, and street trees.

## AIR QUALITY

- Air Quality Policy #1: The City should take into consideration the cumulative air quality impacts from proposed developments and should establish and enforce appropriate land uses and regulations to reduce air pollution consistent with the region's Clean Air Plan and State law.
- Water all active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover all trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.
- Sweep public streets daily, or as often as needed, with water sweepers, to keep streets free of visible soil material.
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) sufficient to prevent visible airborne dust.
- Limit traffic speeds on unpaved roads to 15 mph.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.

## BIOLOGICAL RESOURCES

- **Trees.** All non-orchard trees that are to be removed shall be replaced at the following ratios:
  - Each tree less than 12" in diameter to be removed = one 15 gallon tree
  - Each tree 12" to 18" diameter to be removed = two 24" box trees
  - Trees greater than 18" diameter shall not be removed unless a Permit has been approved by the Director of Planning, Building, and Code Enforcement for the removal of such trees. Each tree greater than 18" diameter to be removed = four 24" box trees
- The species and exact number of trees to be planted on the site will be determined in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement. In the event the developed portion of the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented at the permit stage:
  - An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.
  - A donation of \$300 per mitigation tree to San Jose Beautiful or Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Environmental Principal Planner prior to issuance of a development permit.

## GEOLOGY AND SOILS

- Hazards Policy #1: Development should only be permitted in those areas where potential to the health, safety, and welfare of the residents of the community can be mitigated to an acceptable level.
- Soils and Geologic Conditions Policy #1: The City should require soils and geologic review of development proposals to assess such hazards as potential seismic hazards, surface ruptures, liquefaction, landsliding, mudsliding, erosion, and sedimentation in order to determine if these hazards can be adequately mitigated.
- Earthquakes Policy #1: The City should require that all new buildings be designed and constructed to resist stresses produced by earthquakes.

## HAZARDS AND HAZARDOUS MATERIALS

- A limited soil sampling/verification study shall be conducted in the former hazardous waste drum storage area (this could be conducted at the applicant's most convenient period during the site preparation) with the results submitted to the Environmental Compliance Manager at the Environmental Service Department for their review and records.
- Surveys should be completed for asbestos-containing building materials and lead-based paint in structures at the site prior to demolition of on-site buildings. If these materials are present, they should be properly disposed of by licensed contractors.
- If construction activities include excavation and off-site disposal of soil in the area beneath the southeast corner of the Cheese Plant building, beneath the former USTs No. 1, 2 and 4 and ASTs C & 0, then that soil should be segregated and characterized through sampling and testing to assess proper disposal options. If construction activities include dewatering activities in the vicinity of the former UST 1 and 2, then water should be pumped to ASTs and tested prior to discharging.
- The four 55-gallon drums and stockpiled soil should be removed from the site and properly disposed of under manifest control.
- The oil/diesel equipment in the vicinity of the boilers rooms should be removed from the site and properly disposed of and the stained concrete in the boiler and adjoining rooms in both buildings should be steam cleaned and waste water generated during steam cleaning operations should be properly disposed of.
- The owner of the transformers observed at the site should be identified and the transformers, if not needed for future development, should be properly removed.
- The hydraulic lifts at the loading docks should be removed following local regulations.
- The pile of piping located adjacent to the drum storage racks should be characterized for suspect asbestos material and disposed of accordingly.
- Verification that all San Jose Fire Department and Santa Clara Valley Fuel Leak closure requirements have been satisfied by submittal of the closure documents from those agencies to the Environmental Compliance Manager at the Environmental Service Department prior to the issuance of a Planned Development Permit.
- Proper closure of the water supply well under permit from the Santa Clara Valley Water District and verification by submittal of a closure document from the District to the Environmental Compliance Manager at the Environmental Service Department prior to the issuance of a Planned Development Permit.

## HYDROLOGY AND WATER QUALITY

- **Storm Water Management.** The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of storm water pollutants including sediments associated with construction activities. Examples of BMPs are contained in the publication *Blueprint for a Clean Bay*. Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works, Room 308, 801 North First Street, San José, California 95110-1795. The Erosion Control Plan

may include BMPs as specified in ABAG's *Manual of Standards Erosion & Sediment Control Measures* for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES permit requirements or the documents mentioned above, please call the Department of Public Works at (408) 277-5161.

- **Storm Water Management.** This project results in a land disturbance of more than one acre. Prior to the commencement of any clearing, grading, or excavation, the project shall comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit as follows:
  - The applicant shall develop, implement, and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of storm water pollutants including sediments associated with construction activities.
  - The applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB.)
- Along with these documents, the applicant may also be required to prepare an Erosion Control Plan. The Erosion Control may include BMP's as specified in the California Storm Water Best Management Practice Handbook for reducing impacts on the City's storm drainage system from construction activities.
  - Prior to the issuance of a grading permit, the applicant shall submit copies of the NOI and Erosion Control Plan (if required) to the City Project Engineer, Department of Public Works, Room 308, 801 North First Street, San Jose, California 95110-1795. To obtain an NOI application and further information about the Erosion Control Plan and the NPDES permit requirements, please call the Department of Public Works at (408) 277-5161 or the SWRCB at (916) 657-1146.
  - The applicant shall maintain a copy of the most current SWPPP on site, and shall provide a copy to any City representative or inspector on demand.
  - The project will comply with the City of San José Grading Ordinance, including erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. The following specific Best Management Practices will be implemented to prevent storm water pollution and minimize potential sedimentation during construction.
    - restricting grading to the dry season (April 15 through October 15) or meet City requirements for grading during the rainy season;
    - using Best Management Practices, including the use of fiber rolls along the edge of the riparian corridor or project boundary nearest the corridor, to retain sediment on the project site;
    - use of stabilized construction entrances and/or wash racks;
    - damp street sweeping;
    - providing temporary cover of disturbed surfaces to help control erosion during construction;
    - provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

## LAND USE AND PLANNING

- Neighborhood Identity Policy #3: Public and private development should be designed to improve the character of existing neighborhoods. Factors that cause instability or create urban barriers should be discouraged or removed.
- Neighborhood Identity Policy #4: Neighborhoods should include places for interaction among residents such as parks, community centers, schools, commercial areas, churches, and other gathering points.
- Residential Land Use Policy #1: Residential development at urban densities (one dwelling unit per acre or greater) should be located only where adequate services and facilities can be feasibly provided.
- Residential Land Use Policy #5: Residential development should be allowed in areas with identified hazards to human habitation only if these hazards are adequately mitigated.
- Residential Land Use Policy #11: Residential developments should be designed to include adequate open spaces in either private yards or common areas to partially provide for residents' open space and recreation needs.

- Residential Land Use Policy #20: Roads, buildings and landscaping for new residential projects should be designed and oriented to maximize energy conservation benefits for space heating and cooling to the extent feasible.
- Residential Land Use Policy #24: New residential development should create a pedestrian friendly environment by connecting the features of the development with safe, convenient, accessible, and pleasant pedestrian facilities. Such connections should also be made between the new development, the adjoining neighborhood, transit access points, and nearby commercial areas.

## NOISE

- Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
- The contractor shall use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poor maintained engines or other components.
- Staging areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses.
- All units shall have forced air ventilation systems to allow the windows to remain closed.
- A wall of similar materials and with a height equal to the existing soundwall should be constructed to connect the currently discontinuous walls, thereby forming a continuous sound barrier, without cracks or gaps in the face or base across the Highway 101 frontage of the site.
- Windows shall be of thermal insulating glass.
- Residential units closest to Highway 101, which face or are perpendicular to the highway shall have sound rated windows and exterior walls, which achieve a laboratory Sound Transmission class (STC) rating of 45 for the first floor and 50 for the second floor..
- Prior to issuance of occupancy permits, building plans for all units will be checked by a qualified acoustical consultant to ensure that noise levels are attenuated to achieve the 45 dBA Ldn limits.
- Noise Policy #1: The City's acceptable noise level objectives are 55 DNL as the long-range exterior noise quality level, 60 DNL as the short-range exterior noise quality level, 45 DNL as the interior noise quality level, and 76 DNL as the maximum exterior noise level necessary to avoid significant adverse health effects. These objectives are established for the City, recognizing that the attainment of exterior noise quality levels in the environs of the San José International Airport the Downtown Core Area, and along major roadways may not be achieved in the time frame of this Plan. To achieve the noise objectives, the City should require appropriate site and building design, building construction and noise attenuation techniques in new residential development.

## PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **October 26, 2004**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or

(3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a “fair argument” based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP  
Director, Planning, Building and Code Enforcement

Circulated on: October 7, 2004

\_\_\_\_\_  
Deputy

Adopted on: \_\_\_\_\_

\_\_\_\_\_  
Deputy

MND/JAC 12/29/03